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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/307,261	HOOVER ET AL.	
	Examiner	Art Unit	
	Nicholas D. Rosen	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 May 1999* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-83* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-83* is/are rejected.

7)☒ Claim(s) *3* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 May 1999* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *2,3* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claims 1-83 have been examined.

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 212, "Men's Styles," and 213, "Ladies' Styles" in Figure 4 are not mentioned by reference number in the description, although these hyperlinks in Figure 4 are referred to verbally on page 24, line 14. Likewise, the "Help" button in Figure 13 is referred to on page 33, lines 19-20, but without mention of the reference number, 267. "Scroll through Favorites," reference number 283 from Figure 16, is apparently not mentioned in the written description. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are further objected to because of the following inconsistency between the drawings and the written description: On page 26 of the specification, lines 19-21, the "I've done that" button is referred to as 244, and the "more info" button as 245. This is a reversal of the assignment of reference numbers to the buttons in Figure 6. A proposed drawing correction, corrected drawings, or amendment to the

specification to renumber the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 19 and 20 are objected to because of the following informalities: There should be a period at the end of claim 19. Appropriate correction is required.

Claims 36-42 and 70 are objected to because of the following informalities: In the first line of claim 36, "accessory" should be followed by a comma and the word "comprising", or else a comma and the phrase, "the system comprising". Appropriate correction is required.

Claim 39 is objected to because of the following informalities: The word "intermediate" should be followed by "between". Appropriate correction is required.

Claims 43-50 and 71 are objected to because of the following informalities: In the first line of claim 43, there should be a comma after "accessory", since the elements recited make up the system, not the accessory. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 43-50 and 71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 recites the limitation "the client computer" in the ninth line of the claim (first line on page 50). There is insufficient antecedent basis for this limitation in the claim.

Claims 44-50 and 71 are rejected as depending on claim 43.

Claim 77 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 77 recites the limitation "the accessory" in the sixteenth line of the claim (line 6 on page 56). There is insufficient antecedent basis for this limitation in the claim.

Claims 80 and 81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 80 recites the limitation "the client computer" in the ninth and tenth lines of the claim (lines 7 and 8 on page 57). There is insufficient antecedent basis for this limitation in the claim.

Claim 81 is rejected as depending on claim 80.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 78 is rejected under 35 U.S.C. 102(e) as being anticipated by Fay (U.S. Patent 5,983,201). Fay discloses a method for permitting a customer to preview and purchase accessories, the method comprising: providing an image of an intended recipient of an accessory to an input device (Abstract; column 5, lines 8-24); displaying plural accessory images to the customer for evaluation (Abstract; column 5, line 60, through column 6, line 12); selecting an accessory image from the displayed accessory images (column 6, lines 4-12); displaying a composite image comprising the selected accessory image on the intended recipient of the accessory (Abstract; column 5, lines 60-65); evaluating the composite image (Abstract; column 6, lines 4-12); and purchasing the accessory in the selected accessory image (column 6, lines 4-9 and 34-53). (Fay is held to meet all the limitations of claim 78; although Fay may not quite meet

all of applicant's intentions in claim 78, the limitations recited do not specify the order of operations.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 4-5, 8-12, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay (U.S. Patent 5,983,201). As per claim 1, Fay discloses a method for previewing an accessory to be worn by a person, the method comprising: providing a first image to an input device at a first location, the first image including at least a portion of a person (Abstract); transmitting data of the first image to a computer at a second location (Abstract); selecting a second image from an electronic database of

images on or accessible to the computer at the second location, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (Abstract); generating data of a composite image from the data of the first image and data of the second image with computer at the second location, the composite image including the accessory worn on the portion of the person (Abstract); and displaying the composite image on an output device at the first location (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing). Fay does not expressly disclose that the computer at the second location is a server computer, but official notice is taken that the use of server computers is well known; the computer of Fay's invention might even be considered to be a server computer on the basis of what it does, even without the word "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 2, Fay discloses that the transmitting of data can be done over the Internet (column 8, line 63, through column 9, line 4).

As per claim 4, Fay discloses that the first image comprises the face of the person (Abstract), and that selecting the second image is performed in accordance with the person's interpupil distance (column 5, lines 17-24).

As per claim 5, Fay discloses purchasing the accessory after displaying the composite image (Abstract, final sentence; column 6, lines 34-53).

As per claim 8, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 9, Fay does not disclose selecting a third image of a background setting prior to generating data of a composite image, and wherein generating data of a composite image comprises generating data of a composite image from the data of the first image, data of the second image, and data of the third image. However, official notice is taken that it is well known to present images, and product images in particular, against a selected background (see, for example, Hill, U.S. Patent 5,970,471, Abstract and column 2, lines 48-65; for another example, Maloomian, U.S. Patent 4,261,012, column 4, lines 30-36). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to select a third image of a background setting, and have generating data of a composite image comprise generating data of a composite image from data of the third image as well as first and second, for the obvious advantage of presenting the accessory in an attractive manner, which could be expected to increase sales and profits.

As per claim 10, Fay discloses that the input device can comprise a digital camera (column 4, lines 10-14; column 5, lines 8-24; column 6, lines 54-60; column 7, lines 23-29 and 46-50; column 7, line 66, through column 8, line 19).

As per claim 11, Fay discloses that the accessory can comprise cosmetics or jewelry (column 9, lines 4-8).

As per claim 12, Fay discloses that the first location can be a kiosk (column 5, lines 25-31).

As per claim 67, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 1 above, and further in view of Maloomian (U.S. Patent 4,261,012). Fay does not disclose manipulating data of the first image to modify a size of the first image to correspond to a template having a predetermined size, but Maloomian teaches this (column 3, lines 49-59). Maloomian further teaches that selecting a second image comprises using the template to select the second image (column 3, line 30, through column 4, line 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to manipulate data of the first image to modify a size of the first image to correspond to a template having a predetermined size, wherein selecting a second image comprises using the template to select the second image, for the advantage, as taught by Maloomian, of presenting an image enabling a user to judge what he would look like wearing a particular article.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 1 above, and further in view of Maloomian (U.S. Patent 4,261,012). Fay does not disclose manipulating data of the first image to modify a size of the first image to correspond to a template having a predetermined size, but Maloomian teaches this (column 3, lines 49-59). Maloomian also teaches that generating data of a composite image comprises using data of the template to generate data of the

composite image (column 2, lines 42-65; column 3, line 30, through column 4, line 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to manipulate data of the first image to modify a size of the first image to correspond to a template having a predetermined size, wherein generating data of the composite image comprised using data of the template to generate data of the composite image, for the advantage, as stated by Maloomian, of enabling a user to judge what he would look like wearing a particular article.

Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 1 above, and further in view of Brush, II et al. (U.S. Patent 5,884,029). Fay does not disclose that the output device is capable of displaying a three-dimensional image, but Brush teaches an output device capable of displaying a three-dimensional image (column 1, line 52, through column 2, line 21). (See also Fisher, U.S. Patent 6,331,858.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the output device be capable of displaying a three-dimensional image, for the obvious advantage of presenting to the user a more realistic and interesting image of his (or another person's) appearance wearing the accessory.

Claim 83 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 1 above, and further in view of Brush, II et al. (U.S. Patent 5,884,029). Fay does not disclose that the output device comprises a holographic display apparatus or a virtual reality apparatus, but Brush teaches an output device comprising a virtual

reality apparatus (column 1, line 52, through column 2, line 21). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the output device comprise a holographic display apparatus or a virtual reality apparatus, for the obvious advantage of presenting to the user a more realistic and interesting image of his (or another person's) appearance wearing the accessory.

Claims 13-16, 19-24, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay. As per claim 13, Fay discloses a method for previewing an accessory, the method comprising: providing data of a first image of at least a portion of an intended recipient of the accessory to a first computer (Abstract); selecting a second image from an electronic database of images, the second image of an accessory to be worn on the portion of the intended recipient in the first image (Abstract); generating data of a composite image from the data of the first image and data of the second image with the first computer (Abstract); transmitting the data of the composite image from the first computer to a second computer (Abstract); and displaying the composite image on an output device in communication with the second computer (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing). Fay does not expressly disclose that the first computer is a server computer and that the second computer is a client computer, but official notice is taken that the use of server computers and client computers is well known; the computers of Fay's invention might even be considered to be a server computer and a client computer on

the basis of what they do, even without the words "server" and client being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first computer be a server computer and the second computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 14, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 15, Fay discloses that the output device can be located at the customer's home (column 2, lines 50-56).

As per claim 16, Fay discloses that the second (client) computer can be located at a kiosk (column 5, lines 25-31).

As per claim 19, Fay discloses that transmitting the data can comprise transmitting the data via the Internet (column 8, line 63, through column 9, line 4).

As per claim 20, Fay does not expressly disclose that displaying the composite image on the output device comprises displaying the composite image on a Web page, but Fay does disclose the use of the Internet (column 8, line 63, through column 9, line 4), and official notice is taken that it is well known to display images, and in particular, to display images of products for sale, on Web pages. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the composite image on a Web page, for the obvious advantage of

making the image conveniently available to the increasing multitude of customers with Web access.

As per claim 21, Fay discloses that providing data of the first image comprises retrieving data of the first image from an information medium on or accessible to the first computer (column 5, lines 55-60).

As per claim 22, Fay discloses that the intended recipient of the accessory is a customer (Abstract).

As per claim 23, Fay discloses that the accessory can comprise jewelry or cosmetics (column 9, lines 4-8).

As per claim 24, Fay discloses selecting a plurality of accessory images from an electronic database of image in accordance with the data of an intended recipient's body parameters (Abstract; column 5, lines 55-65), and displaying the plurality of accessory images (column 6, lines 4-12). Fay does not disclose manually entering data of an intended recipient's body parameters, but official notice is taken that it is well known to manually enter data of an intended recipient's body parameters. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce to have data of an intended recipient's body parameters manually entered, for the obvious advantage of making it possible to select or custom-make an accessory fitting the intended recipient without the difficulty and expense of using digital cameras and other scanning equipment, which may not be conveniently available.

As per claim 68, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 13 above, and further in view of Maloomian (U.S. Patent 4,261,012). As per claim 17, Fay does not expressly disclose manipulating data of the first image so that the first image is modified and corresponds to a template, but Maloomian teaches this (column 3, lines 49-59). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to manipulate data of the first image so that the first image was modified and corresponded to a template, for the advantage, as stated by Maloomian, of presenting a true proportional figure composite to the viewer-consumer.

As per claim 18, Maloomian further teaches selecting plural accessory (or at least clothing) images from the database with the template and displaying the plural images (column 3, line 30, through column 4, line 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to select plural accessory images from the database with the template and display the plural accessory images, for the obvious advantage of enabling the user to select among plural accessories.

Claims 25-26, 28-34, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Hill (U.S. Patent 5,970,471). As per claim 25, Fay discloses a method for previewing an accessory, the method comprising: generating a first composite image of a person and a first accessory image (Abstract); displaying the first composite image to a customer (Abstract; column 6, lines 4-33); and generating a

second composite image from a second accessory image (Abstract; column 6, lines 4-33). Fay does not disclose generating a second composite image from a second image of the person as well as a second accessory image (at least, not from a second image of the person which is distinct from the first image of the person), but official notice is taken that it is well known to make multiple images of a person (in different poses, from different angles, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to generate a second composite image from a second image of the person, for the obvious advantage of offering a variety of images, making the effect less monotonous, and therefore more likely to maintain the customer's interest, thus generating more sales.

Fay does not disclose simultaneously displaying the first and second composite images, but Hill discloses simultaneously displaying multiple images (Abstract; Figures 9 and 13; column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to simultaneously display the first and second composite images, for the advantage, as stated by Hill, of readily enabling the customer to compare the images, and choose the accessory (or accessories) which best pleased him.

As per claim 26, Fay does not disclose displaying a first price corresponding to the first accessory image and a second price corresponding to the second accessory image, but official notice is taken that it is well known to display the prices of products displayed for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display first and second

prices corresponding to the first and second accessory images, for the obvious advantage of enabling the customer to judge which accessory or accessories he was willing and able to pay for, and to arrange for payment.

As per claim 28, Fay discloses that the accessory can be a pair of sunglasses (column 2, lines 50-60; column 8, lines 38-39), implying that the images of different accessories (e.g., column 6, lines 4-17) can be images of different sunglasses.

As per claim 29, Fay discloses an image of the person, with no indication that different first and second images of the person are used (column 5, lines 7-24; column 5, line 55, through column 6, line 12).

As per claim 30, Fay discloses evaluating the displayed first and second composite images (column 6, lines 4-12). Fay does not expressly disclose deleting the less favorable composite image of the first and second composite images and saving the more favorable composite image of the first and second composite images, but official notice is taken that it is well known to delete what is unwanted and save what is wanted. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to delete the less favorable composite image of the first and second composite images for the obvious advantage of avoiding clutter on the display device; and to save the more favorable composite image of the first and second composite images, for the obvious advantage of reminding the customer of the image(s) found more favorable, and making it convenient for the customer to order the corresponding accessory or accessories.

As per claim 31, Fay does not disclose that the more favorable image is saved in a file containing favorable composite images. However, official notice is taken that it is well known to save what is wanted in an appropriate file. (See, for example, Levine et al., U.S. Patent 5,745,681.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the more favorable image saved in a file containing favorable composite images, for the obvious advantage of enabling the customer to review the images found to be more favorable, and conveniently order the corresponding accessory or accessories.

As per claim 32, Fay does not expressly disclose displaying the price of the first and second accessories, but official notice is taken that it is well known to display the prices of products for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the price of the first and second accessories, for the obvious advantage of enabling the customer to judge which accessory or accessories he was willing and able to pay for, and to arrange for payment.

As per claim 33, Fay discloses that the accessory can be a pair of sunglasses (column 2, lines 50-60; column 8, lines 38-39), implying that the first and second accessories (e.g., column 6, lines 4-17) can be different pairs of sunglasses.

As per claim 34, Fay discloses that the person is the customer (Abstract).

As per claim 68 (69), Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 25 above, and further in view of Hill (U.S. Patent 5,970,471). Fay does not expressly disclose displaying the first and second composite images in a cascading format, a tiled format, or an overlaid format, but Hill discloses displaying first and second images in a tiled format (Abstract; Figures 9 and 13; column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the first and second composite images in a cascading format, a tiled format, or an overlaid format, for the obvious advantage of enabling the customer to conveniently compare the images and the corresponding accessories.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Hill as applied to claim 25 above, and further in view of the article "Macy's Eases Swimsuit Fear with Database" (by Janelle Brown). Fay does not disclose that the person is a model who has an appearance similar to an intended recipient of the accessory, but the article "Macy's Eases Swimsuit Fear with Database" teaches having the person be a model who has an appearance similar to an intended recipient of an accessory (or garment, if bathing suits do not qualify as accessories) (first and third paragraphs). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the person be a model with an appearance similar to an intended recipient of the accessory, for the advantage, as stated by the article "Macy's Eases Swimsuit Fear with Database," of enabling a

customer to see the accessory on a model with resembling the customer, and thus judge how the accessory will look upon the customer himself or herself.

Claims 36-42 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay. As per claim 36, Fay discloses a system for previewing an accessory, comprising: an input device for receiving a first image, wherein the first image includes an image of at least a portion of a person (abstract; column 5, lines 8-31); a first computer operatively coupled to the input device (column 5, lines 8-31); a second computer including a first computer program for selecting data of a second image from an electronic database of images, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (column 5, line 55, through column 6, line 12), and a second computer program for generating data of a composite image from data of the first image and data of the second image, wherein the second computer is operatively connected to the first computer (column 5, line 55, through column 6, line 12); and an output device for displaying the composite image, wherein the output device is operatively coupled to the first computer (column 6, lines 4-12), wherein the input device, first computer, and the output device are at a first location and wherein the second computer is located at a second location (Abstract; column 5, lines 55-60). Fay does not expressly disclose that the first computer is a client computer, or that the second computer is a server computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention might be considered to be client and server computers, respectively, on the

basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be client and server computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 37, Fay discloses that access may take place over the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4).

As per claim 38, Fay does not expressly disclose a firewall between the second computer and the first computer, but official notice is taken that firewalls are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a firewall between the computers, for the obvious advantage of protecting against theft or unauthorized disclosure of private data and other damage that may be done by crackers.

As per claim 39, Fay does not expressly disclose an Internet service provider intermediate between the first and second computers, but does disclose use of the Internet (column 8, line 63, through column 9, line 4), and official notice is taken that it is well known for Internet users to have Internet service providers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have an Internet service provider intermediate between the first and second computers, for the obvious advantage of enabling Internet users to have convenient access to the second computer.

As per claim 40, Fay discloses a computer program for processing purchases (column 6, lines 34-39), the program(s), as such, being implicit from the functions which the computer is described as carrying out.

As per claim 41, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 42, Fay does not disclose that the second computer comprises a third computer program for selecting a background database from an electronic database of background images, but official notice is taken that it is well known to present images, and product images in particular, against a selected background (see, for example, Hill, U.S. Patent 5,970,471, Abstract and column 2, lines 48-65). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention include a computer program for selecting a background image from an electronic database of background images, for the obvious advantage of presenting the accessory in an attractive manner, which could be expected to increase sales and profits.

As per claim 70, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 43-50 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay. As per claim 43, Fay discloses a system for previewing an accessory, comprising: an information storage medium comprising a first electronic database of images of people (column 5, lines 8-24 and 55-60); a first computer including (i) a first

computer program for selecting a first image from the first electronic database, the first image comprising an image of an intended recipient of an accessory (column 5, lines 5-60), (ii) a second computer program for selecting a second image from a second electronic database, the second image comprising an image of an accessory to be worn on the intended recipient in the first image (column 5, line 60, through column 6, line 3), and (iii) a third computer program for generating data of a composite image from the data of the first image and data of the second image (column 5, line 60, through column 6, line 3), wherein the first computer is operatively connected to a second computer (column 5, lines 55-60; column 6, lines 61-63); a second computer for receiving the data of the composite image, wherein the second computer is operatively connected to the first computer (column 5, lines 55-60; column 6, lines 4-17; and column 6, lines 61-63); and an output device for displaying the composite image, wherein the output device is operatively coupled to the second computer (implicit in column 6, lines 4-17). Insofar as Fay is not explicit about the computer programs, the existence of appropriate programs is held to be inherent from the descriptions of what the computer system does.

Fay does not expressly disclose that the first computer is a server computer and the second computer a client computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention might be considered to be server and client computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be server and client

computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 44, Fay discloses the use of the Internet to operatively couple computers (column 6, lines 61-63; column 8, line 63, through column 9, line 4).

As per claim 45, Fay discloses an input device operatively coupled to the second computer (column 6, lines 4-9).

As per claim 46, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 47, Fay discloses a kiosk, where the second computer is at the kiosk (column 5, lines 25-31).

As per claim 48, Fay discloses a computer program for processing a purchasing transaction (column 6, lines 34-39), the program(s), as such, being implicit from the functions which the computer is described as carrying out.

As per claim 49, Fay does not expressly disclose two or more databases, each of the databases containing different accessories, but does disclose that his invention can be used for different kinds of accessories (column 9, lines 4-13). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the storage medium include two or more databases, each of the databases containing different accessories, for the obvious advantage of conveniently displaying and selling different kinds of accessories.

As per claim 50, Fay discloses that the intended recipient is a customer (Abstract).

As per claim 71, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 51-58 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Hill. As per claim 51, Fay discloses a first computer comprising (i) a first computer program for selecting data of a first accessory image from an electronic database (Abstract; column 5, lines 5-60); (ii) a second computer program for generating data of a first composite image from data of the first accessory image and data of a person's image (column 5, line 60, through column 6, line 3), (iii) a third computer program for selecting data of a second accessory image from the electronic database (column 6, lines 4-12), and (iv) a fourth computer program for generating data of a second composite image from data of the second accessory image and data of the person's image (column 5, line 55, through column 6, line 12); a second computer operatively connected with the first computer (column 5, lines 55-60; column 6, lines 61-63); and a display device for displaying the first and second composite images to a customer for previewing accessories before purchasing (column 5, line 55, through column 6, line 12).

Fay does not expressly disclose that the first computer is a server computer, or that the second computer is a client computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention

might be considered to be server and client computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be server and client computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

Fay does not expressly disclose an information storage medium for saving data of the first composite image, the information storage medium being on or accessible to the server first computer, but Fay does disclose that the customer can order a pair of eyeglasses already tried on (column 6, lines 4-9 and 33-53), implying a storage medium storing a record of which eyeglasses (or other accessories) have been tried on.

Fay does not disclose that the first and second composite images are displayed to a customer for *simultaneously* previewing accessories before purchasing, but Hill discloses simultaneously displaying multiple images (Abstract; Figures 9 and 13; column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to simultaneously display the first and second composite images, for the advantage, as stated by Hill, of readily enabling the customer to compare the images, and choose the accessory (or accessories) which best pleased him.

As per claim 52, Fay discloses that the computers can be operatively coupled via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4).

As per claim 53, Fay discloses processing the sale of an accessory by computer (column 6, lines 33-53), implying a program for doing so.

As per claim 54, Fay does not disclose a firewall between the first and second computers, but official notice is taken that firewalls are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a firewall between the computers, for the obvious advantage of protecting against theft or unauthorized disclosure of private data and other damage that may be done by crackers.

As per claim 55, Fay discloses an input device operatively connected to the second computer (column 6, lines 4-9).

As per claim 56, Fay discloses that a second computer can be located at a kiosk (column 5, lines 25-31).

As per claim 57, Fay does not expressly disclose that the kiosk contains accessories for sale, but does disclose that a second computer may be located in any appropriate location, including on the premises of an optician or an optometrist (column 5, lines 29-31), where such accessories as eyeglasses are presumably on sale. Moreover, official notice is taken that it is well known for kiosks to contain items for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the kiosk to contain accessories for sale, for the obvious advantage of enabling customers to readily obtain accessories which they had selected.

As per claim 58, Fay does not expressly disclose that the second computer comprises a Web browser computer program, but does disclose communication over the Internet (column 6, lines 61-63; column 8, line 64, through column 9, line 4). Official notice is taken that communication over the Internet frequently involves the use of a Web browser computer program. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second computer comprise a Web browser computer program, for the obvious advantage of enabling the user to conveniently access data made available through the Web, and interact with Web pages to view accessories for sale, make purchases, etc.

As per claim 72, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 59-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Hill. As per claim 59, Fay discloses a system for assisting a customer to select a desired accessory, the system including means for generating a first composite image from an image of a person and an image of a first accessory (Abstract; column 5, line 55, through column 6, line 3); and transmitting a second composite image generated from an image of the person and an image of a second accessory (column 6, lines 4-12); wherein the first and second accessories are different (column 6, lines 4-12). Fay does not expressly disclose an electronic display screen, but this is held to be implicit from the computer-implemented transmission of images which the customer is able to view (column 6, lines 4-12). Fay does not disclose that the electronic display

screen comprises, at once, a previously saved first composite image and a second composite image, but Hill teaches saving items of interest, and having screens displaying multiple items side-by-side (Abstract; column 2, lines 24-37; Figures 9 and 13). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a screen comprise a previously saved first composite image and a second composite image, for the advantage, as stated by hill, of enabling a customer to readily compare the items (accessories) shown in the first and second images.

As per claim 60, Fay does not disclose that the first and second composite images are in a tiled, cascading, or overlapping format, but Hill teaches images in a tiled format (Abstract; Figures 9 and 13; column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the first and second composite images in a tiled, cascading, or overlapping format, for the advantage, as stated by Hill, of readily enabling the customer to compare the images, and choose the accessory (or accessories) which best pleased him.

As per claim 61, Fay does not disclose that the screen comprises the prices of the first and second accessories, but official notice is taken that it is well known to display the prices of products displayed for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the screen comprise the prices of the first and second accessories, for the

obvious advantage of enabling the customer to judge which accessory or accessories he was willing and able to pay for, and to arrange for payment.

As per claim 62, Fay discloses that the person is an intended recipient of an accessory (Abstract).

As per claim 63, Fay does not expressly disclose a hyperlink, Fay does disclose use of the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4), and official notice is taken that hyperlinks are a well-known feature of the Internet. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a hyperlink, for the obvious advantage of enabling a user to readily and conveniently access a plurality of related Web pages.

As per claim 64, Fay does not disclose that the first composite image and the second composite image are in an array of favorable composite images, but Hill teaches allowing a customer to select favorable images for an array (column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second composite images be in an array of favorable composite images, for the advantage, as stated by Hill, of readily enabling a customer to compare favorable product items (accessories).

As per claim 65, Fay does not disclose a button for deleting less favorable composite images, but official notice is taken that it is well known to delete unwanted images and other objects. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a button for

deleting less favorable composite images, for the obvious advantage of removing clutter, and enabling the customer to more easily concentrate on more favorable composite images, and order the accessories displayed therein.

As per claim 66, Fay discloses that the accessories can be prescription eyeglasses (Abstract, first paragraph).

Claims 73-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay. As per claim 73, Fay discloses a method for permitting a customer to preview a pair of sunglasses before purchasing, the method comprising: providing a first image to an input device operatively connected to a first computer, the first image including the face of a person (Abstract; column 5, lines 8-24); transforming the first image into data of the first image with first computer (column 5, lines 8-24); transmitting data of the first image from the first computer to a second computer (column 5, lines 25-29), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); selecting a second image from an electronic database of images on or accessible to the second computer (column 5, line 60, through column 6, line 3), the second image comprising an image of a pair of sunglasses (column 2, lines 59-60); generating data of a composite image from the data of the first image and data of the second image with the second computer (column 5, line 60, through column 6, line 3), the composite image including the image of the pair of sunglasses (column 2, lines 59-60); transmitting the data of the composite image from the second computer to a first computer (column 6, lines 4-5), which may be done via the Internet (column 6, lines 61-

63; column 8, line 63, through column 9, line 4); and displaying the composite image on a display device operatively coupled to the first computer such that a customer can preview the sunglasses before purchasing (column 6, lines 4-17).

Fay does not expressly disclose that the first computer is a client computer, or that the second computer is a server computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention might be considered to be client and server computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be client and server computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 74, Fay discloses, after displaying the composite image, purchasing the pair of sunglasses (column 6, lines 4-9 and 34-53).

As per claim 75, Fay does not expressly disclose that selecting a second image comprises providing selection information to a second input device, but does disclose selecting a second image, which inherently requires providing selection information to a second input device (not necessarily distinct from the first input device).

As per claim 76, Fay does not expressly disclose that the second input device comprises at least one of a keyboard, a touchpad, a touchscreen, a voice recognition apparatus, and a mouse. However, official notice is taken that keyboards, touchpads,

touchscreens, voice recognition apparatuses, and mice are all well-known input devices. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second input device comprise at least one of a keyboard, a touchpad, a touchscreen, a voice recognition apparatus, and a mouse, for the obvious advantage of enabling the selection information to be conveniently input.

Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay. Fay discloses a method for permitting a customer to preview a pair of sunglasses before purchasing, the method comprising: providing a first image to an input device operatively connected to a first computer, the first image including the face of a person (Abstract; column 5, lines 8-24); transforming the first image into data of the first image with first computer (column 5, lines 8-24); transmitting data of the first image from the first computer to a second computer (column 5, lines 25-29), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); selecting a second image from an electronic database of images on or accessible to the second computer (column 5, line 60, through column 6, line 3), the second image comprising an image of a pair of sunglasses (column 2, lines 59-60); generating data of a composite image from the data of the first image and data of the second image with the second computer (Abstract; column 5, line 60, through column 6, line 3), the composite image including the image of the pair of sunglasses on the face of the person (Abstract; column 2, lines 59-60; column 5, line 60, through column 6, line 3); transmitting the data

of the composite image from the second computer to a first computer (column 6, lines 4-5), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); and displaying the composite image on a display device operatively coupled to the first computer such that a customer can preview the accessory before purchasing (column 6, lines 4-17). Fay further discloses that a first computer, including all of the hardware and software needed to accomplish its tasks, can be at a kiosk (column 5, lines 25-31).

Fay does not expressly disclose that the first computer is a client computer, or that the second computer is a server computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention might be considered to be client and server computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be client and server computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

Claim 79 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 78 above (rejected under 35 U.S.C. 102). Fay does not expressly disclose that selecting an accessory image is performed at a kiosk, but discloses the use of a kiosk (column 5, lines 25-31). Moreover, official notice is taken that it is well

known to use kiosks to make selections, etc. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the selecting of an accessory image performed at a kiosk, for the obvious advantages of enabling someone without a personal computer of his own to be a customer, and enabling someone who has provided an image at an appropriately equipped kiosk to make a selection at once, without delay or the need to log in again from another location.

Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay. Fay discloses a method for previewing an accessory, the method comprising: providing data of a first image of at least a portion of a person to a first computer (Abstract; column 5, lines 8-29 and 55-60); selecting a second image from an electronic database of images, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (column 5, line 60, through column 6, line 3), wherein the accessory is at least one of sunglasses, jewelry, handbags, and cosmetics (column 2, lines 59-60; column 9, lines 4-13); generating data of a composite image from the data of the first image and data of the second image with the first computer, the composite image comprising the accessory on the person (Abstract; column 5, line 60, through column 6, line 3); and displaying the composite image on an output device in communication with a second computer (column 4, lines 4-12).

Fay does not expressly disclose that the first computer is a server computer, or that the second computer is a client computer, but official notice is taken that client-

server architecture is well known; the first and second computers of Fay's invention might be considered to be server and client computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be server and client computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

Claim 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claim 80 above, and further in view of the article "Macy's Eases Swimsuit Fear with Database" (by Janelle Brown). Fay does not disclose that the person is a model who has an appearance similar to the appearance of the intended recipient, but the article "Macy's Eases Swimsuit Fear with Database" teaches having the person be a model who has an appearance similar to an intended recipient of an accessory (first and third paragraphs). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the person be a model with an appearance similar to an intended recipient, for the advantage, as stated by the article "Macy's Eases Swimsuit Fear with Database," of enabling a customer to see the accessory on a model with an appearance resembling that of the customer, and thus judge how the accessory will look upon the customer himself or herself.

Allowable Subject Matter

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Fay, discloses that the accessory can be a pair of sunglasses, but does not disclose that the method further comprises displaying a shaded image, wherein a shade of the shaded image corresponds to a shade seen by a person wearing the pair of sunglasses. Various prior art exists regarding shaded images, but no prior art of record discloses, teaches, or reasonably suggests this limitation.

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. White (U.S. Patent 5,195,030) discloses a system and method of foot shape imaging and overlay. Smith (U.S. Patent 5,539,677) discloses a method and apparatus for measuring foot sizes. Motomiya et al. (U.S. Patent 6,083,267) disclose a

system and method for designing an accessory. Cragun (U.S. Patent 6,177,936) discloses browser hierarchical contextual information for Web pages. Fisher (U.S. Patent 6,331,858) discloses a display terminal user interface with the ability to select a remotely stored surface finish for mapping onto a displayed 3-D surface.

Ohtsuka (European Patent Application EP 0 905 563 A2) discloses an order information recording medium and order file generating apparatus for photographic service.

Orr ("Good Design") discloses, *inter alia*, shaded images in computer-aided design systems. Taylor ("Windows Draw 4.0") discloses manipulating photo images. The article, "Free Graphics E-Mail from SPC Software," discloses templates and image manipulation for creating custom e-mail. The Microsoft Press Computer Dictionary, third edition, discloses definitions of client, server, client/server architecture, and firewall. The article, "Sunglass Hut's Eyes Are Focused on the Internet," discloses a business that sells sunglasses over the Internet. Langberg, in his "Technology Testdrive Column," discloses the use of Cosmopolitan Virtual Makeover The Collection.

The examiner also wishes to make of record that he has read and considered a document included with the IDS filed December 13, 1999, paper #3 in the file, "Trying on Clothes in a Virtual Dressing Doom," by J.D. Biersdorfer, which is not cited in the IDS. The examiner is not certain of the relation of this document to the article "Finding a Look," which is listed in the IDS as C20 but not found with the other listed articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications, 703-746-7240 for non-official/draft communications, and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Nicholas D. Rosen
February 11, 2002